

August 16, 2018

Mr. Devin Leary  
Human & Rohde, Inc.  
512 Virginia Avenue  
Towson, MD 21286

RE: Luke Steckel Property at 3301 Mt. Carmel Road  
Forest Conservation Variance  
Tracking # 03-18-2788

Dear Mr. Leary:

A request for a variance from Article 33, Title 6, Baltimore County's Forest Conservation Law was received by this Department on August 2, 2018. This request seeks approval for the removal of a specimen tree in poor condition due to its location in the new septic reserve area required to serve the existing dwelling to remain in a proposed two-lot minor subdivision. The specimen tree to be removed is a 52-inch diameter silver maple (Acer saccharinum) in poor condition.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the three criteria under Subsection 33-6-116 (d) must be met, and all three (3) of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to remove a specimen tree within the septic reserve area of the existing house to remain. This septic area is required to serve the existing house that was built well prior to the Forest Conservation Law. Therefore, denying the variance would deprive the petitioner of all beneficial use of the property, and we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. Rather than the general conditions in the neighborhood, the petitioner's plight is due to the unique circumstances associated with the location of this tree relative to the septic reserve area for the existing house that precludes avoidance

of the tree while still developing the property as a two-lot subdivision. Therefore, we find that this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The removal of one specimen tree in poor condition will have no appreciable effect on the character of the neighborhood given that the proposed development is consistent with the character and density of the rural neighborhood, and the tree would have to be removed soon regardless of the proposed development activity. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The tree to be removed is not near any stream, wetland, or associated buffer. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The petitioner has not taken any actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Four other specimen trees would remain on the property. Permitting the removal of one specimen tree in poor condition for a development activity that will otherwise comply with the Forest Conservation Law would be consistent with the spirit and intent the Forest Conservation Law. Therefore, this criterion has been met.

Based upon our review, this Department finds that all of the above criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code. Mitigation for removal of this tree is not required given its poor condition. However, please include a note on all subsequent plans for this project stating:

“A variance to the Forest Conservation Law was granted on August 16, 2018 by Baltimore County EPS to allow the removal of one specimen tree from Lot 1. No mitigation was required given the tree’s poor condition; however, this variance does not exempt future development activities or specimen tree impacts from compliance with this Law.”

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If you have any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Deputy Director

DVL/ges

c. Marian Honeczy, Maryland DNR